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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Tenth session

SUMMARY RECORD OF THE 28th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 20 May 1994, at 3 p.m.

Chairperson: Mr. ALVAREZ VITA

later: Mr. ALSTON

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The meeting was called to order at 3.30 p.m.

ORGANIZATION OF WORK (agenda item 2) (continued)

Decisions adopted by the Committee at its tenth session

1. The CHAIRPERSON invited Mrs. Bonoan-Dandan, Rapporteur, to read out the text of the draft decisions in order to allow the members of the Committee to make their comments.

2. Mrs. BONOAN-DANDAN (Rapporteur) read out the text of the following draft decision:

"Fact Sheet

The Committee recalls its request made two years ago that the Fact Sheet published by the Centre for Human Rights dealing with the Covenant on Economic, Social and Cultural Rights be substantially revised and reissued on an urgent basis. This request was agreed to at the time but no action has yet been taken. In view of the dire need for the Committee to have a general explanatory text available for those interested in learning about the Covenant and the work of the Committee, the Centre for Human Rights is requested to accord the highest possible priority to this project with a view to a draft being available by the Committee's eleventh session in November 1994."

3. The draft decision was adopted.

4. Mrs. BONOAN-DANDAN (Rapporteur) read out the following draft decision:

"World Summit for Social Development

The Committee wishes to affirm that it attaches great importance to the preparations for, and the outcome of, the World Summit for Social Development to be held in Copenhagen in March 1995. At its ninth session the Committee held very useful discussions with the Coordinator of the Summit, Mr. Jacques Baudot, and, in the course of its tenth session the Committee's chairperson was invited to address an inter-agency meeting convened in Geneva to review the first draft of the Declaration and Programme of Action to be adopted by the Summit.

Given the extremely close links between the agenda for the Summit and the responsibilities of the Committee it decides to send its Rapporteur, Ms. Virginia Dandan, to represent it at the second Preparatory Committee meeting to be held in New York in August 1994. It requests its Rapporteur to bring the importance of the Covenant and the potential roles that may be played by the Committee in the follow-up to the Summit to the attention of those participating in the Preparatory Committee session. The Committee also decides to send one of its members, to be nominated at its eleventh session, to participate in the Social Summit."

5. The draft decision was adopted.

6. Mrs. BONOAN-DANDAN (Rapporteur) read out the following draft decision:

"Fourth World Conference on Women

The Committee notes that the Fourth Conference on Women will be held in Beijing in September 1995. Given the fundamental importance of the promotion of economic, social and cultural rights to the effective advancement of the status of women, the Committee decides to follow the preparations for the Conference very carefully. For this reason it requests the Secretariat to provide it, at its eleventh session, with a briefing paper on current developments in relation to preparations for the Conference with particular emphasis on the role of economic, social and cultural rights. It decides to adopt a position paper in relation to the Conference at that session and to be represented at the Conference itself by a member to be nominated at its eleventh session."

7. The draft decision was adopted.

8. Mrs. BONOAN-DANDAN (Rapporteur) read out the following draft decision:

"Publication of the reports of the Committee

The Committee notes with regret that the report of its eighth session held in May 1993 and its ninth session held in November-December 1993 have not been published as of 20 May 1994. It understands that this delay results from the assumption that the report need not be published until it is required by the Economic and Social Council. The Committee notes that this delay is extremely inconvenient for Governments, international agencies, NGOs and others, especially at the national level, for whom the report is the only practical way of obtaining access to the work of the Committee. It therefore requests that every effort be made to publish the Committee's annual report as soon as possible after the relevant session and not to delay publication for over six months because of the timing of the Council's annual session."

9. Mr. TEXIER said that the issue of the delay in the publication in the reports of the Committee was particularly important and it was essential for the Committee to request an explanation from the Economic and Social Council. The Committee itself set firm deadlines for States for the submission of their reports, and it was paradoxical that its own report was subject to such a delay.

10. Mr. Alston took the Chair.

11. Mr. TIKHONOV (Secretary of the Committee) said that under the procedure followed hitherto, the report of the Committee had been prepared as soon as the session had ended, in November and submitted to the Economic and Social Council before being published, usually in June. That schedule had been changed as a result of the Committee's request to hold extraordinary sessions, since when it had followed the practice of other Committees, consisting of producing an annual report covering two or three sessions. The timing of the

Committee's report was determined by the fact that it was prepared for the meeting of the Economic and Social Council, and the report on the ninth session would appear in a few weeks.

12. Mr. SIMMA said that as the format of the Committee's report had been changed in order to make it more concise, it should be easier to finalize and publish. He, too, was disturbed by the delay in the publication of the report.

13. Mr. TIKHONOV (Secretary of the Committee) said that after the Committee's session in May 1992 a document had been produced containing extracts of most of the important decisions taken by the Committee, as part of the annual report of the Committee, and another document containing the Committee's concluding observations had been issued in all languages. Thus, documents setting out the most important aspects of the Committee's work at its previous two sessions had been available before the current session.

14. The CHAIRPERSON took the view that the only document describing the work of the Committee that was widely distributed was its annual report. One had to be extremely conversant with the United Nations system to track down any other minor documents; it was for that reason that the Committee attached such importance to the prompt publication of the annual report.

15. The draft decision was adopted.

16. The CHAIRPERSON said that the draft decision on honorariums had to be set within the context of the overall review under way within the United Nations of the system of honorariums. He read out the following draft decision:

"Honorariums

The Committee notes that the decision adopted by the Economic and Social Council (Decision 1993/297 of 28 July 1993) to the effect that members of the Committee should, like their counterparts in other treaty bodies, receive an honorarium for their work has not been acted upon by the General Assembly. While it has been informed that this may be due in part to an overall review by the Secretariat of the payment of honorariums, it wishes to point out that its request for action on this matter already dates back several years and urges that attention be given to this matter as soon as possible."

17. The draft decision was adopted.

18. The CHAIRPERSON read out the following draft decision:

"Coordination with the Council of Europe and the ILO Committee of Experts

The Committee had a very useful discussion at its tenth session with a representative of the Committee of Independent Experts established pursuant to the Council of Europe's European Social Charter. The Committee notes that, to a very significant extent, the problems and challenges which it faces are similar to those faced by the Committee of Independent Experts, as well as by the ILO's Committee of Experts on the

Application of Conventions and Recommendations. It believes that it would be extremely valuable, not only for purposes of mutual enlightenment but also to increase coordination and gain a better overview of the demands placed upon States and others concerned, if a meeting could be convened of representatives of the three bodies. It requests the ILO to consider hosting such a meeting at a mutually convenient time, preferably before or after a meeting of the Committee, on the assumption that the travel costs and expenses of the participating experts would be met by their respective organizations."

19. The draft decision was adopted.

20. The CHAIRPERSON read out the following draft decision:

"Advisory services

The Committee expresses its thanks to the Secretariat for providing it, as requested, with a paper on the relationship between economic, social and cultural rights and the provision of advisory services and technical cooperation to States. Because of the late receipt of this paper and the importance of its availability in the relevant languages, the Committee decides to defer consideration of this matter until its eleventh session. It will take up the matter again at that time with a view to adopting a formal position on the issues arising from the paper and perhaps providing an indicative list of the types of project which it considers might most usefully be undertaken in order to promote economic, social and cultural rights."

21. Mr. TEXIER regretted that the paper referred to in the draft decision had been issued too late for it to be examined at the current session of the Committee. He had himself read it and had in particular noted that the paper made a start at analysing relationships between the Committee and the press and the possibility of making the Covenant better known in the States parties. It was important that the Committee should devote sufficient time to the matter at its eleventh session.

22. The draft decision was adopted.

23. The CHAIRPERSON read out the following draft decision:

"Optional Protocol

The Committee decides to return to the question of an optional protocol to the Covenant at its eleventh session on the basis of a revised paper to be submitted before that session by Mr. Philip Alston."

24. Mrs. JIMENEZ BUTRAGUEÑO suggested that the text of the draft decision should be more emphatic.

25. Mr. SIMMA said that it would be convenient if the members of the Committee could receive the paper before they came to Geneva for the next session of the Committee, in order to prepare their comments.

26. Mr. ALVAREZ VITA suggested that the word "return" should be replaced by "continued" in order more closely to reflect the spirit of the Committee's work on that item.

27. The CHAIRPERSON suggested that the beginning of the draft decision might be amended in the following manner: "The Committee emphasizes the importance that it attaches to the preparation and adoption of an optional protocol to the Covenant and decides to continue its work on that issue at its eleventh session ...". The rest of the draft decision would remain unchanged.

28. The draft decision, as amended, was adopted.

29. The CHAIRPERSON read out the following draft decision:

"Day of General Discussion

The Committee decides to hold a day of general discussion at its twelfth session (on the Monday of the third week) on general question relating to the interpretation and application of the obligations of States parties as recognized by the Covenant."

30. Mrs. BONOAN-DANDAN said that if the general discussion was to be productive, a strict framework would have to be established, with no digressions permitted.

31. The CHAIRPERSON said that a number of approaches might be adopted, one being to go through the Committee's General Comment No. 3 paragraph by paragraph. The details could be worked out at the following session.

32. The draft decision was adopted.

33. The CHAIRPERSON read out the following draft decision:

"Secretariat servicing

The Committee recalls that it has, for a number of years, requested the Secretary-General to increase the extent of the servicing provided by the Centre for Human Rights. These requests have so far gone unheeded. The Committee continues to operate with the assistance of only a single professional - the Committee Secretary - who performs duties for other treaty bodies as well. No specific expertise in relation to economic, social and cultural rights is provided to the Committee.

In view of the unique responsibility that the Committee bears in relation to economic, social and cultural rights, of the particular complexity and scope of these issues, and of the Committee's heavy workload in relation to the examination of reports, the drafting of general comments, the preparation of days of general discussion, and a wide range of other matters referred to it by the Commission on Human Rights and other United Nations organs, the Committee urgently requests the Secretary-General to provide it with the services of a full-time expert in this field, in addition to its Secretary."

34. The draft decision was adopted.

35. Mrs. JIMENEZ BUTRAGUEÑO said that in her opinion the Committee was quite close to adopting its draft general comments on persons with disabilities and the rights of the aging and elderly. She wondered whether it would be possible to do so at the current session.

36. The CHAIRMAN said that, in his opinion to adopt four or five pages of general comment at the current late stage of the session would not do justice to the Committee's methods of work. He suggested that the Committee should adopt the following decision with regard to those draft general comments:

> "The Committee decides to accord the highest priority at its eleventh session to the adoption of the draft general comments relating to persons with disabilities and the rights of the ageing and elderly. It requests Mrs. Jimenez Butragueño, on the basis of the consultations held at its tenth session, to provide it with a revised draft in relation to the ageing and elderly for consideration."

37. Mr. SIMMA endorsed the Chairman's statement. He himself had a number of points to raise in connection with the draft general comment on persons with disabilities which would certainly have given rise to extensive discussion.

38. Mr. TEXIER noted that in any event the draft general comment would not be published until November; delaying its adoption would give the members more time for reflection. It had been a difficult discussion, and one for which many members, himself included, had not been sufficiently prepared.

39. The CHAIRPERSON noted that Mr. Ceausu and Mr. Grissa had also made proposals regarding the draft comments in question. It would therefore be preferable to delay adoption until the next session.

40. He drew attention in that connection to the Committee's increasing workload and the need to find a way to allocate the Committee's time more generously. On another matter, there had been a suggestion to establish compilations of the Committee's work. He asked the members to think about how that might be done, with a view to a discussion on the issue at the next session.

41. He announced that the composition of the pre-sessional working group for the next session would be Mr. Kouznetsov, Mr. Alvarez Vita, Ms. Taya, Mrs. Jimenez Butragueño and Mrs. Ahodikpe.

42. On the question of whether the Committee should make an interim statement about Mr. Muterahejuru, he suggested that the best course would be to write to the High Commissioner for Human Rights in another week or two asking for further information.

43. It was so decided.

CONSIDERATION OF REPORTS (agenda item 4) (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT

Philippines

44. The CHAIRPERSON read out the following draft decision on the Philippines:

"The Committee, having considered at its 21st meeting, held on 17 May 1994, the information submitted by the Government of Philippines in the response to the request made by the Committee at its ninth session, expresses its appreciation to the Government of the Philippines for the timely and detailed written replies and for its readiness and willingness to cooperate with the Committee.

The Committee notes with satisfaction that the Government of the Philippines has undertaken to provide the Committee with more complete information on the issues identified by the Committee with respect to the right to housing in its second periodic report on the implementation of articles 10 to 12 of the International Covenant on Economic, Social and Cultural Rights, which it has pledged to submit before the eleventh session of the Committee (21 November - 9 December 1994).

The Committee also notes with satisfaction the declaration made by the representative of the Philippines to the effect that the written report would be presented to the Committee by experts in the field of housing rights.

The Committee recommends that the report, now being prepared by the Government of the Philippines, should also address the issues identified in the written information submitted to the Committee by the Habitat International Coalition and referred to by a member of the Committee during the dialogue with the State party, as well as that provided to the Committee on 2 May 1994 by the representatives of local non-governmental organizations."

45. The draft decision on the Philippines was adopted.

Panama

46. The CHAIRPERSON noted that the Committee had had a long-running debate with Panama, with a request for a visit outstanding. At the current session, however, there had been a strong feeling that the new Government in Panama was likely to address itself seriously to the issues raised by the Committee. He therefore suggested that the Committee should express its appreciation to the Government of Panama for the detailed oral and written information presented at its present session, note that a number of issues of mutual concern were outstanding and note with appreciation the undertaking given by the representative of Panama that further information would be provided by an expert from Panama at the next session.

47. If there was no objection, he would take it that the Committee wished to proceed in that way.

48. It was so decided.

49. The CHAIRPERSON said in reply to comments by Mr. ALVAREZ VITA and Mr. SIMMA that specific references would be made to the information provided by the State party.

Kenya

50. The CHAIRPERSON read out the following draft decision on Kenya:

> "The Committee appreciates the willingness of the Government of Kenya to present a report to the Committee and to engage in a dialogue with it. The Committee, having considered the information contained in the initial report and the oral replies to questions raised decides to request the State party to prepare a new comprehensive report which follows the Committee's guidelines on reporting. The Committee further recommends that the new report should take into account the points raised during its dialogue with the State party at its tenth session. The report should also address the points made in the concluding observations adopted by the Committee at its eighth session on the state of implementation by Kenya, etc. The Committee considers that the preparation of the new report would permit it to engage in a more constructive and fruitful dialogue with the State party and requests that the new report be submitted by the end of 1994. In the context of the preparation of the new report the Committee also welcomes the request indicated by the delegation to receive technical assistance from the Centre for Human Rights for this purpose. In view of the foregoing, the Committee recommends that the Centre provide the necessary assistance to the State party from its technical assistance and advisory services programme."

51. The draft decision on Kenya was adopted.

Dominican Republic

52. Mr. SIMMA said that the situation in the Dominican Republic was far from satisfactory. The Committee had written to the authorities after its ninth session inviting experts to attend the tenth session. In response, the Government had sent a letter denying that there had been any large-scale evictions amounting to violations of the Covenant. However, information provided by a non-governmental organization flatly contradicted that assertion.

53. The CHAIRPERSON said that the Committee had received an undertaking that experts would be sent. However, elections in the Dominican Republic had intervened, making it impossible. The Committee had therefore agreed to defer the matter until the eleventh session. He suggested that a general statement should be sent to the Government saying that the Committee had noted the information provided and in particular the undertaking to send an expert to address the Committee at its eleventh session and that the Committee had

requested that account should be taken of the additional information received by members of the Committee during the course of the tenth session, a copy of which would be attached. A more substantive approach should not be made to the Government of the Dominican Republic in view of its undertaking.

54. Mr. SIMMA said that in its communication, the Committee should add that, in the meantime, it urged the Government to desist from the planned evictions of more than 20,000 families in the capital, Santo Domingo. The matter was of the utmost urgency and a failure to impress that on the Government may mean that by the eleventh session it would be too late to prevent the forced evictions from taking place.

55. The CHAIRPERSON said that the Committee should state that it was concerned at information it had received and requested the Government to do everything possible to ensure full protection of the right to adequate housing.

56. Mr. ALVAREZ VITA said that the communication should emphasize the Committee's insistence on the right to housing particularly as media reports had been received on how the elections had adversely influenced the situation in the Dominican Republic. A new Government was about to take office and the general and universal need to protect the right to housing should be stressed to pre-empt accusations by the new Government that the situation was the fault of its predecessor. The communication should therefore be addressed to the State itself and not a particular Government.

57. The CHAIRPERSON said that if there was no objection, he would take it that the Committee wished to proceed in that way.

58. It was so decided.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 8)

59. Mrs. BONOAN-DANDAN proposed, with regard to the obligation of members of the Committee to absent themselves when matters relating to the country they represented were under discussion that the following text should be adopted:

> "While the Committee does not believe that it is necessary to adopt any formal statement for its rules of procedure, it considers it desirable that an individual expert should not participate in the work of the Committee during its discussion of concluding observations relating to the State party by which the expert has been nominated for election to the Committee".

60. It was so decided.

61. Mr. TEXIER said that the Committee should take note of the fact that there was never full attendance by all members of the Committee. Obviously, in cases of force majeure members would not be expected to be present, but at other times, members should make every effort to help the Committee to function as efficiently as possible. When States parties nominated a candidate, they should make it clear to the expert that attendance of the sessions of the Committee was of the utmost importance.

62. Mr. WIMER ZAMBRANO said that States parties could not be held accountable for the attendance of members of the Committee, as they were responsible only for nominating an expert, and nothing else. Account had to be taken of the fact that experts often help important posts in their home country and thus had pressing demands on their time. Furthermore, with regard to members being absent when their State party was under discussion, he did not believe that the Committee should have raised the point as, in the past, it had led to a lack of consensus.

63. Mrs. JIMENEZ BUTRAGUEÑO said that members who had been elected to report on the activities of other human rights treaty bodies should be allotted time at the beginning of each session to inform the Committee of their findings, particularly when it would be of relevance to the States parties to be discussed at that session.

64. It was so agreed.

CLOSURE OF THE SESSION

65. After an exchange of courtesies, the CHAIRPERSON declared the session closed.

The meeting rose at 5.10 p.m.